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TO AMEMBASSY BANGKOK

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E. O. 11652: N/ A

TAGS: EFIN

SUBJECT: GOVERNMENT RESTRICTIONS ON FOREIGN INVESTMENT

REF: BANGKOK 4051

1. IN CONNECTION WITH REFTEL REQUEST FOR INFORMATION ON
FOREIGN GOVERNMENT INVESTMENT RESTRICTIONS, EMBASSY MAY
FIND FOLLOWING SUMMARY OF RESTRICTIVE PRACTICES HELPFUL:

A) ANDEAN PACT (COLOMBIA, CHILE, PERU, BOLIVIA,
ECUADOR AND RECENTLY VENEZUELA). MAJOR PROVISIONS
INCLUDE: I) DIVESTMENT- EXISTING FOREIGN FIRMS NOT WILLING
TO FOREGO THE TRADE LIBERALIZATION BENEFITS OF THE PACT
MUST AGREE TO DIVEST 51 PERCENT OF PARTICIPATION WITHIN
20 YEARS IN BOLIVIA AND ECUADOR, AND 15 YEARS IN THE
REMAINING COUNTRIES. NEW FIRMS MUST AGREE TO
PROGRESSIVE TRANSFORMATION WITHIN THE SAME TIME PERIOD;
II) SECTOR NORMS-- MEMBER COUNTRIES MAY DENY CERTAIN
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ACTIVITIES THEY FEEL SUFFICIENTLY SERVED BY EXISTING INDUSTRY, AS WELL AS RESERVING SECTORS FOR NATIONAL OR MIXED FIRMS; III) PROFITS, FINANCE AND INVESTMENT-- FOREIGN FIRMS MAY REMIT PROFITS UP TO 14 PERCENT A YEAR. WHILE MEMBER COUNTRIES MAY MAKE BLANKET AUTHORIZATIONS FOR REINVESTMENT OF UP TO 5 PERCENT OF PROFITS, SUCH REINVESTMENT MUST BE MADE UNDER RULES APPLYING TO NEW INVESTMENT, AND MAY NOT BE MADE IN SHARES PREVIOUSLY HELD BY NATIONAL INVESTORS. ONLY UNDER EXCEPTIONAL CIRCUMSTANCES WILL FOREIGN FIRMS HAVE ACCESS TO DOMESTIC SHORT- TERM CREDIT; IV) TECHNOLOGY-- ALL NEW CONTRACTS FOR TECHNOLOGY IMPORTATION MUST BE APPROVED BY COMPETENT NATIONAL AUTHORITY AND MEET STANDARDS TO PREVENT HIDDEN CAPITAL TRANSACTIONS.

B) VENEZUELA. IN ADDITION TO RECENTLY JOINING THE ANDEAN PACT, VENEZUELA HAS A DRAFT FOREIGN INVESTMENT LAW. WHILE PLACING NO CEILINGS ON PROFIT REMITTANCES, THE PROPOSED LAW PROVIDES FOR FADE- OUT FROM FOREIGN TO NATIONAL COMPANY IN 15 YEARS, AND FROM FOREIGN TO MIXED COMPANY IN 10 YEARS. WITHOUT AUTHORIZATION, COMPANIES CAN REINVEST 20 PERCENT OF ORIGINALLY AUTHORIZED FIXED CAPITAL INVESTMENT ANNUALLY FOR INSTALLED CAPACITY ONLY. ALL CONTRACTS FOR FOREIGN- SUPPLIED TECHNOLOGY WILL REQUIRE GOVERNMENT APPROVAL.

C) MEXICO. THE MEXICAN CONGRESS IS CONSIDERING AN INVESTMENT BILL ESTABLISHING A NATIONAL COMMISSION ON FOREIGN INVESTMENT. THE BILL CALLS FOR 51 PERCENT MEXICAN OWNERSHIP IN ALL ENTERPRISES WITH FOREIGN CAPITAL UNLESS A HIGHER PERCENTAGE IS DEMANDED BY EXISTING MEXICAN LAW. THE LAW REQUIRES GOVERNMENT PERMISSION FOR SALE TO FOREIGNERS OF COMPANIES MORE THAN 25 PERCENT MEXICAN- OWNED; AND PROVIDES TECHNICAL AND FINANCIAL ASSISTANCE TO MEXICANS WISHING TO PURCHASE EXISTING BUSINESS ENDANGERED BY POSSIBLE TAKEOVER.

D) GHANA. THE CAPITAL INVESTMENT DECREE REQUIRES ALL NEW INVESTMENTS BE SUBMITTED TO A CAPITAL INVESTMENTS BOARD FOR APPROVAL. SUCH APPROVAL IS BASED ON THE GOVERNMENT INVESTMENT POLICY WHICH LISTS THE AREAS RESERVED FOR THE STATE; STATE/ FOREIGN PARTICIPATION LIMITED OFFICIAL USE

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(55 PERCENT STATE OWNERSHIP IN TIMBER AND MINERALS;

30 PERCENT IN ALUMINA; 20 PERCENT IN OIL COMPANIES IN THE PRODUCTION PHASE; AND 55 PERCENT IN BASIC NECESSITIES INCLUDING SUGAR, SOAP, FERTILIZERS AND PETROLEUM AND LUBRICANTS); FULL PRIVATE GHANAIAN; AND COMPLETE FOREIGN INCLUDING ENTERPRISES NOT LISTED IN THE FOREGOING SECTORS.

E) BACKED BY THEIR DOMINANT POSITION CONTROLLING THE MAJOR RESERVES OF A PETROLEUM- HUNGARY WORLD, OPEC GOVERNMENTS HAVE WITHIN THE PAST YEAR DEMANDED, AND OBTAINED, EQUITY PARTICIPATION IN THE OIL PRODUCING ACTIVITIES OF THE CONCESSIONARY COMPANIES. AGREEMENTS HAVE BEEN NEGOTIATED IN SAUDI ARABIA AND OTHER PERSIAN

GULF STATES FOR IMMEDIATE 25 PERCENT OWNERSHIP BY THE GOVERNMENT, GROWING TO 51 PERCENT IN 1982; NEGOTIATIONS ARE UNDERWAY IN OTHER OPEC COUNTRIES FOR SIMILAR AGREEMENTS. IN IRAN, WHICH NATIONALIZED IN THE EARLY 1950' S, THE GOVERNMENT HAS SUCCESSFULLY CONVINCED THE OIL CONSORTIUM THAT IT SHOULD ACCEPT THE ROLE OF PREFERRED CONTRACT PURCHASER, WHILE IN VENEZUELA THE GOVERNMENT IS LOOKING FORWARD TO TAKING OVER THE MAJOR CONCESSIONS WHEN THEY EXPIRE IN THE EARLY 1980' S. IN OTHER OPEC STATES, DIRECT NATIONALIZATIONS HAVE TAKEN PLACE.

F) AUSTRALIA. THE NEW GOA POLICY ON OVERSEAS CAPITAL REQUIRES GOA SCREENING OF TAKEOVERS OF 15 PERCENT OF SHARES OF AUSTRALIAN COMPANIES BY OVERSEAS INTERESTS.

G) CANADA. THE PROPOSED FOREIGN INVESTMENT RESTRICTION ACT PROVIDES FOR GOC SCREENING OF FOREIGN ACQUISITIONS OF MAJOR CANADIAN FIRMS AS WELL AS EVENTUAL GOC SCREENING OF ALL NEW FOREIGN INVESTMENT. ROGERS

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